(3)

C.S. 1082

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. NO. 1782 OF 2004

PETITIONER

Smt. Philomina Ekka, W/o Shri Amrit Kumar Ekka, Aged about years. Occupation -Service, posted As Bal Vikas Pariyojana Adhikari[ICDS],Department Of Mahila Avam Bal Vikas, Nawagarh, District Janjgir Champa [Chhattisgarh]

P. R. No. 16/4/04
Presented by Shri Amrit Verma
dated ..... 16-4-04 ...

VERSUS

RESPONDENTS

1. State of Chhattisgarh Through the Secretary, Department of Mahila Avam Bal Vikas Tatha Samaj Kalyan, Mantralaya, Dau Kalyan Singh Bhawan, Raipur [Chhattisgarh]

R.S

2. Zila Mahila Avam Bal Vikas Adhikari, District Janjgir-Champa [Chhattisgarh]

R.S

3. Smt.Anita Agrawal,Incharge District Programme Officer, Department of Mahila Avam Bal Vikas, Janjgir-Champa.

R.S.

Photo Copy
17/6/04
Clerk to A G. Bilaspur

15/6/04

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

AFR (170)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1782 of 2004

Petitioner Smt. Philomina Ekka

Versus

Respondents State of Chhattisgarh & others

Shri Ashish Shrivastava, Advocate with Smt. Smita Ghai, Advocate for the petitioner.

Smt. Anju Ahuja, Deputy Govt. Advocate for the Respondents No. 1 and 2.

Shri Pankaj Shrivastava, Advocate for the Respondent No. 3.

ORAL ORDER

(5th May 2006)

This order of the Court was passed by Justice Satish K. Agnihotri.

1. The present petition impugns the suspension order dated 21.5.2004 (Annexure P/1).

2. The undisputed facts of the case are that at the relevant time, the petitioner was employed as Child Development and Project Officer at Navagarh District- Janjgir Champa. The impugned order dated 21.5.2004, placing the petitioner under suspension was passed under Rule 9 (1)(a) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 on the ground that the petitioner as Project Officer in the Integrated Child Welfare Project, Navagarh has committed irregularity in "Ready-to-Eat", nutritious food scheme. Being aggrieved, the petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing the impugned suspension order dated 21.5.2004 and

(171)

further a writ of mandamus commanding the respondents to reinstate the petitioner in service with all consequential benefits etc.

3. Shri Ashish Shrivastava with Smt. Smita Ghai, learned counsel, appearing for the petitioner submits that the suspension order has been passed with malafide motive as the action has been taken against the petitioner by imposing minor penalty of withholding one increment without cumulative effect on 18.5.2004 for the same charges. It is further submitted that the respondent No.3 being District Programme Officer of the Department of Mahila & Bal Vikas, Janjgir Champa, has animosity against the petitioner and accordingly she caused to get this impugned order issued. Thus, the impugned order deserves to be quashed.

4. Smt. Anju Ahnuja, learned counsel appearing for the respondents No. 1 and 2 submits that the impugned suspension order was not passed at the behest of any officer. The order was passed keeping in view the irregularity committed by the petitioner in "Ready-to-Eat" nutritious food scheme. It is further submitted that since the charge sheet has been issued and the enquiry is pending consideration, at this stage this Court should not interfere with the impugned order.

5. Shri Pankaj Shrivastava, learned counsel appearing for the respondent No.3, while adopting the submissions made by learned counsel for the respondents No. 1 and 2, submits that the allegations made against the respondent No.3 are baseless, frivolous and without any substance. It is further submitted that the respondent No.3 was on maternity leave during the period when the alleged irregularities were committed by the petitioner.

6. Be that as it may, having regard to the facts and circumstances of the case, when the charge sheet has been issued and the departmental enquiry is pending consideration, it is not necessary to go into the

allegations and counter allegations made by the parties and further, it is not necessary to go into the legality/validity of the impugned order at this stage.

7. It is well settled principle of law that the suspension is temporary and it does not involve punishment with civil consequences. Suspension means a temporary deprivation of the functions not amounting to any reduction of his rank or his status. The employee under suspension continues to be a Government Servant, he is not permitted to work keeping in view pendency of departmental enquiry to avoid undue influence in the proceedings of departmental enquiry and likely tampering with on records. At this stage it is not necessary to go into the charges levelled against the petitioner because it may prejudice the case of the parties in the pending departmental enquiry.

8. Further, in view of the fact that the petitioner is placed under suspension by order dated 21.5.2004, it is necessary that the enquiry officer should complete the enquiry as expeditiously as possible, preferably within a period of three months.

9. For the reasons stated above this petition stands disposed of. No order as to costs.

Certified copy, as per Rules.

Sd/-
Satish K. Agnihotri
Judge

Thakur